

Eastern Cambridge Rezoning Petition

# Part V

Eastern Cambridge Development Rights  
Transfer Districts

## **PART V - EASTERN CAMBRIDGE DEVELOPMENT RIGHTS TRANSFER DISTRICTS**

### **Purpose**

*The transfer of development rights provision is intended to encourage reduced commercial density close to existing residential neighborhoods, while moving commercial and mixed-use development to areas of Eastern Cambridge that are closer to transit and are more fully developed.*

### **Proposal**

*The transfer of development rights provision establishes two overlay districts: the Eastern Cambridge Transfer Donating District (TDD) and the Eastern Cambridge Transfer Receiving District (TRD). The TDD is the area north of Binney Street and adjacent to the residential neighborhoods from which development rights may be moved. The TRD is the largely commercial area between Binney Street and Main Street and is the district to which additional development may be transferred.*

*Donating districts allow transfer of existing or allowed non-residential development densities, plus allowed residential densities. After the transfer of development rights, the uses permitted on the donating lot would be residential or public park, with a nominal component (10 percent) of retail or office allowed. Transfers of development rights are to be allowed only by special permit from the Planning Board. This allows review of and public comment on the proposed use of the development rights on both the donating and the receiving site.*

**A. In Article 20.000 – Overlay Districts, create a new Section 20.30 to read as follows.**

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**20.30 - Eastern Cambridge Development Rights Transfer Districts (TDD and TRD)**

**20.31 – Purpose.** It is the intent of this Section 20.30 to (1) reduce the density of development close to the existing residential neighborhoods and (2) encourage housing construction compatible with the existing residential neighborhoods through the transfer of existing or potential development to other locations. It is also intended to facilitate the construction of additional residential, office, research and development, retail, and manufacturing uses in areas of eastern Cambridge that are close to transit services, and on sites now fully developed that can more effectively serve the city’s Urban Design Objectives, as set forth in Section 19.30 of the Ordinance, with additional building construction. For the purposes of this Section 20.30, residential use shall be as defined in Section 5.30.11.

**20.32 - Establishment and Scope.** There is hereby established the Eastern Cambridge Development Rights Transfer Districts which shall be governed by the regulations and procedures specified in this Section 20.30. These regulations shall apply to areas described below *or* as they may be otherwise identified on the Zoning Map, which shall be designated as “Eastern Cambridge Development Rights Transfer Donating District “ (TDD) or “Eastern Cambridge Development Rights Transfer Receiving District” (TRD) on the Zoning Map of the City of Cambridge established in Section 3.20.

**20.32.1 - Boundaries of the Districts.**

The boundaries of the districts shall be as described below.

a. The *Eastern Cambridge Development Rights Transfer Donating District* shall be conterminous with the boundaries of the Eastern Cambridge Housing Overlay District (Section 20.40 below) and the portion of the PUD-4B District located north of Binney Street. The Donating District shall be that area from which Gross Floor Area (GFA) is moved or removed for use on a lot in the Receiving District. A Donating Lot shall be a lot in the Donating District from which GFA is removed.

b. The *Eastern Cambridge Development Rights Transfer Receiving District* shall be (1) that area bounded by the centerlines of Binney Street to the north, First Street to the east, Main Street to the south, and on the west a line parallel to, easterly of, and one hundred and fifty feet distant from the easterly sideline of Portland Street and Cardinal Medeiros Avenue, and (2) that portion of the Industry B zone located south of Main Street and bounded by the centerlines of Albany Street; Massachusetts Avenue; Windsor Street; a line southerly of, parallel to, and one hundred and fifty feet distant from the southerly sideline of Main Street; a line easterly of, parallel to and one hundred and fifty feet distant from the southwesterly extension of the centerline of Portland Street north of Main Street; and then Main Street to the point of beginning . The Receiving District shall be that area where GFA from a Donating Lot is used for development. A Receiving Lot shall be a lot in the Receiving District to which GFA is moved.

**20.33 - Procedure.** The transfer of GFA from the Donating District to the Receiving District shall be permitted by special permit from the Planning Board and shall be subject to further provisions set forth below in Section 20.36. The transfer shall be permitted between non-contiguous lots that may be held in separate ownership, notwithstanding any definition of lot set forth in Article 2.000 of this Ordinance.

**20.34 – Limitations, Requirements, and Conditions Applicable to Lots in the Sending District**

**20.34.1 – Non Residential Gross Floor Area Available for Transfer from a Lot in the Donating District to Any Lot in the Receiving District.** The total GFA that may be transferred from any Donating Lot to any Receiving Lot shall be the greater of the following:

- (1) The total amount of non-residential GFA permitted on a lot in any non-residential zoning district in the Donating District at the time of application to permit the transfer, or
- (2) The existing amount of non-residential GFA contained on a lot in any zoning district in the Donating District at the time of application to permit the transfer.

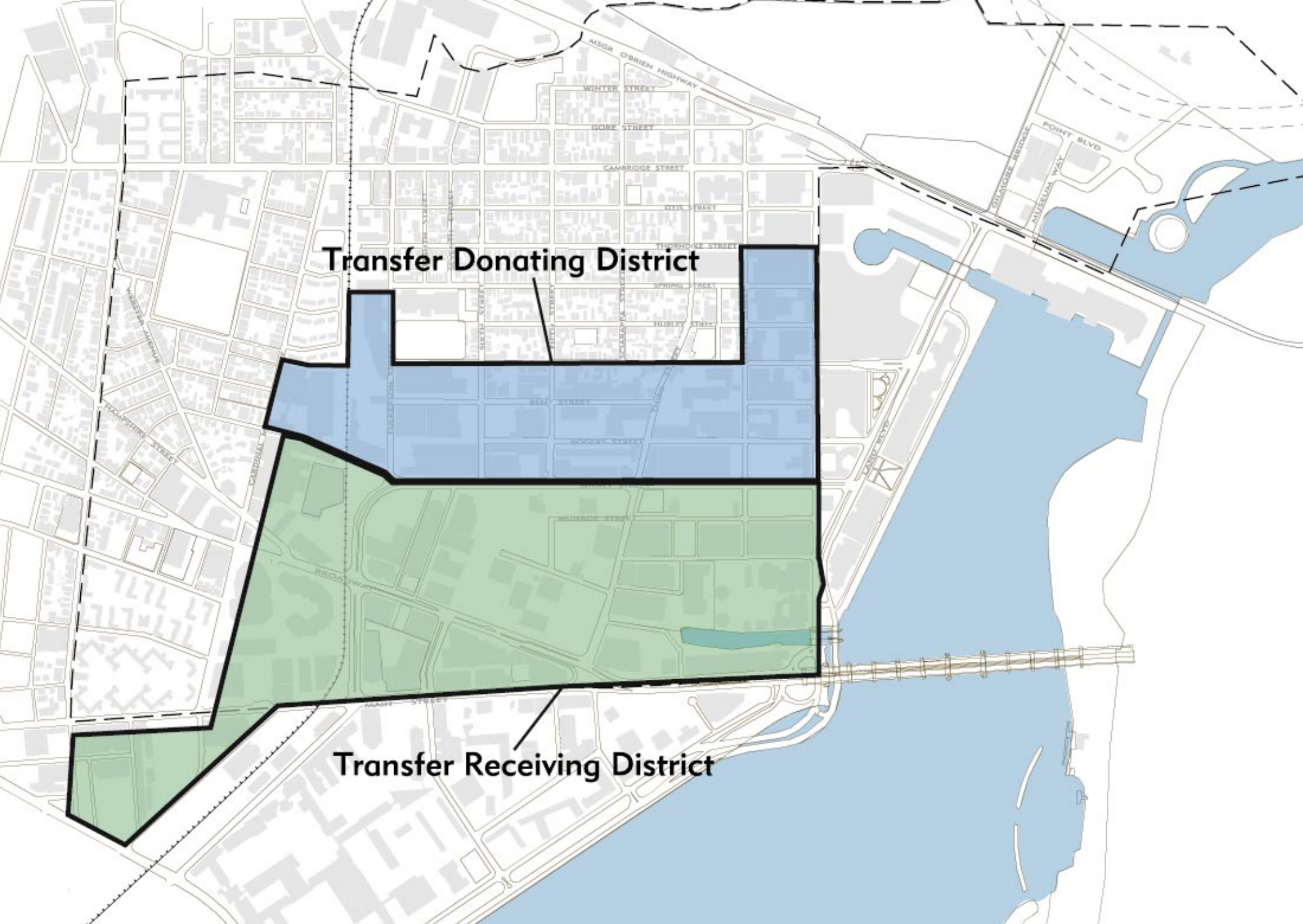
**20.34.2 – Residual Gross Floor Area Available for Residential Development on a Donating Lot after the Non-residential GFA Transfer has been Authorized.** The total Gross Floor Area available for residential development on any Donating Lot shall be the greater of the following:

- (1) The total amount of residential GFA permitted on the Donating Lot after the non-residential GFA has been transferred, including existing residential GFA and residential GFA allowed through the application of the provisions of Section 5.28.2 – *Conversion of Non-Residential Structures to Residential Use*, where it is proposed to reuse a non-residential structure for residential use, or.
- (2) The GFA resulting from an FAR of 0.75 in Residence C-1 base district or 1.25 in any non-residential base district.

**20.34.21 – Residual Residential Gross Floor Area on a Donating Lot Available for Transfer to a Lot in the Receiving District.** The residential GFA permitted on a lot in any residential or non-residential zoning district as determined by Section 20.34.2 above may be transferred to any **receiving** lot **provided** the **future** residential development potential on the Donating Lot is not reduced below an FAR of 0.75.

**20.34.3 – Restrictions on the Donating Lot after Transfer is Authorized.**

- (1) All non-residential GFA existing or permitted under the zoning district regulations applicable on the Donating Lot, whichever is greater, must be transferred, held for future transfer, or abandoned. No non-residential development potential shall remain on the Donating Lot and no use variance may be granted to reestablish non-residential uses after the transfer of GFA has occurred. Any active non-residential use shall be discontinued.



Transfer Donating District

Transfer Receiving District

(2) Development on the Donating Lot is limited to residential use or a public park. Where residential development is proposed to be established, the future residential development shall not have an FAR of less than 0.75. All existing gross floor area not redeveloped to residential use shall be demolished where housing is to be established on the site. The entire site shall be cleared if it is to be developed as a public park.

(3) No building or structure determined to be a Preferably Preserved Significant Building by the Cambridge Historical Commission, as provided in Ordinance No. 965 of the Ordinances of the City of Cambridge, may be demolished. Any such building required to remain shall be converted to a permitted residential use.

(4) Notwithstanding the provisions of Paragraphs (1) – (3) above, or other provisions of this Section 20.30, the remaining residential GFA on a Donating Lot may contain any office or retail use permitted in the applicable base district up to ten (10) percent of the permitted residential GFA.

**20.35.1 – Dimensional and Use Limitations on the Receiving Lot.** The GFA transferred from any Donating Lot to a Receiving Lot shall be subject to the following provisions:

(1) The transferred GFA shall not be subject to any FAR or GFA limitations applicable to the receiving lot.

(2) Non-residential GFA transferred may be used for any use permitted on the Receiving Lot. However, where any non-residential use is limited to a maximum amount of total development on any lot or Development Parcel, the transferred GFA shall be subject to that limitation unless the transferred GFA is in addition to, and not a substitute for, the GFA and use limitations otherwise required on the lot or Development Parcel.

(3) Residential GFA transferred, as permitted in Section 20.34.21 above, shall only be used for residential uses on the receiving lot.

(4) All other dimensional limitations applicable to the receiving lot shall apply to the transferred GFA.

## **20.36 – Special Permit Procedures.**

### **20.36.1 – Required Information.**

In applying for a special permit to permit the transfer of GFA from one or more Donating Lots to one or more Receiving Lots, the following information shall be provided:

(1) The location of all Donating Lots and all Receiving Lots.

(2) Enumeration of the GFA to be transferred, GFA to be retained on the Donating Lot, and the total GFA to be accommodated on the Receiving Lot; the calculations by which the proposed GFA on all sites has been determined.

(3) Schematic development plans showing the proposed development on both the donating and the receiving lots.

(4) A narrative describing the plan's compliance with all requirements of this Section 20.30 and consistency with the *Eastern Cambridge Design Guidelines*.

(5) The schedule by which necessary demolition will take place and authorized construction will commence and be completed. Where it is proposed to occupy transferred GFA before the Donating Lot has been brought into compliance with the requirements of Section 20.34.3 above, the legal instruments proposed by which the requirements of Section 20.34.3 will be met.

(6) The status of leaseholds for tenants in any non-residential GFA on the Donating Lots in structures that are required to be demolished or converted to residential uses, and the mechanisms by which those non-residential uses will be terminated and the site brought into compliance with the requirements of this Section 20.30.

#### **20.36.2 – Special Permit Conditions.**

The Planning Board shall establish in its Decision granting a special permit under the provisions of this Section 20.30 conditions that address at a minimum, the following:

(1) The sequence by which construction and demolition are to occur on both the Donating and Receiving Lots;

(2) The binding commitments to be executed if occupancy of new GFA on the Receiving Lot is to occur before demolition of GFA transferred out from the Donating lot or before new residential or park construction is to occur on the Donating Lot.

(3) The legal instruments by which a proposed park is to be made available to the general public as a public park.

(4) The process by which final development plans are to be approved by the Planning Board.

In granting a special permit the Planning Board shall determine that the authorized development is generally consistent with the development policies set forth in the *Eastern Cambridge Plan* and the *Eastern Cambridge Design Guidelines* dated June 2001.

#### **20.36.3 – Reservation of Gross Floor Area by Owners of Donating Lots.**

To provide flexibility over time in the utilization of GFA available to be transferred, the Planning Board may issue a special permit to permit the reservation of GFA from a Donating Lot to be applied at a later date to a Receiving Lot through a second special permit process. The reservation may be for any length of time acceptable to the Planning Board. The Board, in granting the special permit, shall approve the development plan for the Donating Lot.

***20.37 – Application for a Building Permit on a Donating Lot.***

No building permit application will be accepted by the Superintendent of Buildings for any construction on any lot in the Donating District without a certification provided by the applicant from the Community Development Department that the GFA to be constructed on the lot as set forth in the application is accurate and in conformance with any special permit issued under the provisions of this Section 20.30.

**B. Amend the Zoning Map of the City of Cambridge by establishing the Eastern Cambridge Development Rights Transfer Districts (TDD and TRD) as overlay districts for those areas described in Section 20.32.1 above.**